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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,255	05/23/2005	Johannes Kauffuss	GK-EIS-1083/500593.20075	5405

26418 7590 05/10/2006

REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

EXAMINER

LE, HUYEN D

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/505,255

Applicant(s)

KAULFUSS ET AL.

Examiner

HUYEN D. LE

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 8-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/20/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 8-13 rejected under 35 U.S.C. 102(b) as being anticipated by Yamanoi et al. (U.S. patent 4,463,223).

Regarding claims 8, 10 and 13, Yamanoi teaches a hoop band (11, 12, 3, 4, 5, 5', 6, 6') having two ends (figures 1, 3) and an acoustic transducer (1, 2). As shown in figures 1 and 3, the hoop band extends arcuately in a plane, has a joint (7, 15, 16) and an elastic region (11, 12) as claimed.

Further, Yamanoi teaches a joint (5', 6', 5a, 5a') for pivoting the transducers into the plane and a respective connecting structure (3₁, 4₁, 3₂, 4₂figure 1) that is arranged in the region of the two ends of the hoop band. As shown in figure 1, each connecting structure is able to be connected to each other and in cooperating relationship hold the folded-in ends of the hoop band in a crossed position as claimed.

Regarding claims 9 and 13, as broadly claimed, the connecting structures of Yamanoi are openings in the ends of the hoop band that can be fitted one into the other, and then engage one into the other in positively locking relationship and clasp the crossed ends of the hoop band to each other as claimed (figure 1).

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Regarding claim 11, as broadly claimed, Yamanoi shows the headphone set with the transducers (1, 2) pivoted into the plane and with the ends of the hoop band held in the crossed condition forms a flat unit with the transducers (1, 2) that are disposed in mutually juxtaposed relationship in the plane (figure 1).

Regarding claim 12, as broadly claimed, Yamanoi shows the transducer joint that is a pivotable ball joint (4b).

3. Claims 8, 10, and 11 rejected under 35 U.S.C. 102(b) as being anticipated by Furuhashi (U.S. patent 4,445,005).

Regarding claims 8 and 11, Furuhashi teaches a hoop band (11-1, 11-2, 11-3) having two ends and an acoustic transducer (14-1, 14-2). As shown in figures 11, 14 and 17, the hoop band extends arcuately in a plane, has a joint (12-1, 12-2, 57, 58) and an elastic region as claimed.

Further, Furuhashi teaches a joint (60-1, 60-2, figures 14, 15) for pivoting the transducers into the plane and a respective connecting structure (11-2, 11-3, figure 17) that is arranged in the region of the two ends of the hoop band. As shown in figure 17, each connecting structure is able to be connected to each other and in cooperating relationship hold the folded-in ends of the hoop band in a crossed position as claimed.

Regarding claim 11, as broadly claimed, Furuhashi shows the headphone set with the transducers (14-1, 14-2) pivoted into the plane and with the ends of the hoop band held in the crossed condition forms a flat unit with the transducers that are disposed in mutually juxtaposed relationship in the plane (figure 17).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Furuhashi (U.S. patent 4,445,005).

Furuhashi does not specifically teach the transducer joint (figures 14, 15) that is a pivotable ball joint. However, providing a ball joint for pivoting the transducer is known in the art.

Since Furuhashi does estimate a pivotable joint for the transducer (14-1, 14-2); it therefore would have been obvious to one skilled in the art to provide a ball joint for the pivot joint of transducer (14-1, 14-2) for better pivoting and adjusting the transducers.

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kamimura (U.S. patent 4,409,442) teaches the first ends of the first and second band pieces that are rotatably connected with each other.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (571) 272-7502. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SINH TRAN can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



HL
April 17, 2006


HUYEN LE
PRIMARY EXAMINER